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PATENT
Attorney Docket No.: 026276-000210US

TOWNSEND and TOWNSEND and CREW LLP

By: Lillian Montano

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Robert O'Farrell, et al.

Application No.: 10/820,567

Filed: April 7, 2004

For: SYSTEM AND METHOD FOR
CONTEXT SENSITIVE MOBILE DATA
AND SOFTWARE UPDATE

Customer No.: 20350

Confirmation No. 8559

Examiner: P. Kim

Technology Center/Art Unit: 2169

PETITION UNDER 37 C.F.R. § 1.78
TO ACCEPT AN UNINTENTIONALLY
DELAYED PRIORITY CLAIM
UNDER 35 U.S.C. § 120 and
AMENDMENT TO THE SPECIFICATION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

In response to the Advisory Action dated June 25, 2009, and in accordance with the requirements of 37 C.F.R. § 1.78(a)(3), Applicants submit this Petition to Accept an Unintentionally Delayed Priority Claim Under 35 U.S.C. § 120 for the benefit of a prior filed non-provisional application. Please enter the following amendments and remarks:

Amendments to the Specification begin on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Amendments to the Specification:

Please replace the paragraph under the heading "Reference to Priority Documents" at page 1, lines 4-12 of the specification, with the following amended paragraph, in which added text is indicated by underlining, and deleted text is indicated by strikethrough, with changes identified by a vertical bar in the margin):

REFERENCE TO PRIORITY DOCUMENTS

This application claims the benefit of priority of co-pending U.S. Provisional Patent Application Serial No. 60/461,588 entitled "Context Sensitive Data and Software Update System and Method" filed April 7, 2003 and is a continuation-in-part of U.S. Patent Application Serial No. 10/764,122 entitled System and Method for Mobile Data Update filed January 23, 2004 and is a continuation-in-part of U.S. Patent Application Serial No. 10/746,229 entitled Mobile Data and Software Update System and Method filed December 23, 2003. Priority of the filing dates are hereby claimed, and the disclosures of these applications are hereby incorporated by reference.

REMARKS/ARGUMENTS

In the pending application, the priority claimed in the original application papers is specified in the first paragraph of the specification to include three prior applications: (1) U.S. Provisional Application 60/461,588 filed April 7, 2003; (2) U.S. Patent Application 10/764,122 filed January 23, 2004; (3) U.S. Patent Application 10/746,229 filed December 23, 2003.

This priority information is included in the inventor declaration that was filed in July 9, 2004. The application, however, did not include an indication of the relationship of the applications through a specific reference in the specification or in an Application Data Sheet in the manner required by 37 C.F.R. § 1.78(a)(2)(i).¹

In accordance with the requirements of 37 C.F.R. § 1.78(a)(3), Applicants present this petition with the following items:

- (i) a signed Application Data Sheet (ADS) under 37 C.F.R. § 1.76 is filed with this Petition to provide the specific reference to the provisional application;
- (ii) the specification is amended to include the indication of the relationship of the priority applications to the pending application;
- (iii) the surcharge fee set forth in 37 C.F.R. § 1.17(t) of \$1410.00 is included;
- (iv) Applicants hereby state that the entire delay between the date the claim was due and the date of filing this Petition was unintentional.

The Commissioner is hereby authorized to charge any additional fees associated with this Petition or credit any overpayment to Deposit Account 20-1430.

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¹ The missing indication was pointed out in the Advisory Action mailed June 25, 2009. The Advisory Action was mailed in response to Applicants' Request for Corrected Filing Receipt filed June 19, 2009.


CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Applicants note that, per the Advisory Action dated December 23, 2008, it is believed the Examiner is preparing another Final Office Action (see item 13 of the Advisory Action). The Advisory Action was sent in response to Applicants' Response to the Final Office Action of October 15, 2008. No substantive examination paper has been received since the December 23, 2008 Advisory Action.

If the Examiner believes a telephone conference would expedite prosecution of this application, the Examiner is requested to please telephone the undersigned at 858-350-6100.

Respectfully submitted,


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Attachments
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